

AV

EXHIBIT A

IN THE CIRCUIT COURT FOR FREDERICK COUNTY, MARYLAND

STATE OF MARYLAND

vs.

ABE-ARJUN MALLIK,

Defendant.

*
*
*
*
*
*

Case No.: 10-K-16-059271

DEFENDANT ABE-ARJUN MALLIK'S SENTENCING MEMORANDUM

COMES NOW, Mr. Abe-Arjun Mallik, by and through his counsel, Sun E. Choi, Esq. and DC Metro Law, LLC, and hereby files this Sentencing Memorandum and represents to this Honorable Court as follows:

1. That on June 2, 2017, a jury found Mr. Mallik guilty of eleven (11) counts of possession of child pornography.
2. That a Sentencing Hearing is set for October 3, 2017.
 - a. That Mr. Mallik faces a maximum penalty of fifty-five (55) years of incarceration.
 - b. That the Maryland Sentencing Guidelines Worksheets, provided as an attachment to the Pre-Sentence Investigation ("PSI"), results in an overall guidelines range from probation to two (2) years of incarceration.
 - c. That there is no mandatory minimum of incarceration applicable in this matter. Both Mr. Mallik and the community would be properly protected by probation with appropriate conditions. As such, it is respectfully submitted that a term of incarceration should not be imposed, for the reasons given below:

- i. Mr. Mallik served five (5) days and four (4) nights in jail, from June 2, 2017 to June 6, 2017, and was released by order of this Court that found no basis for continued incarceration;
- ii. Neither the court-ordered psychological evaluation by Dr. Elizabeth Holt nor the evaluation by Dr. LaFaye Marshall that Mr. Mallik underwent at his own volition recommend incarceration. Dr. Holt's report is consistent in nearly all respects with the analysis of Dr. Marshall;
- iii. The probation and parole agent did not identify any factor other than the conviction itself to support any incarceration; the Court has already approved probation for Mr. Mallik for the past 21 months, including post-conviction, and Mr. Mallik has been in full compliance with all requirements; and
- iv. The probation and parole office approved three (3) out-of-state trips for Mr. Mallik after trial that he completed successfully and in compliance with all requirements, which further demonstrates the appropriateness of a term of probation rather than incarceration.

These points, in addition to other information supportive of probation, are addressed in substance below.

3. **Personal Background from PSI**

- a. That Mr. Mallik is Indian, 56 years old, and the youngest of six (6) children.
- b. That Mr. Mallik moved permanently to the United States when he was 22 years old and thereafter became a United States citizen, which he is very proud of. Aside from this conviction, Mr. Mallik has had no involvement of any kind with the law, has never been charged with an offense, and holds a high-level U.S. government security clearance, the "Public Trust" clearance, attesting to his otherwise good record.

c. That Mr. Mallik is married to Aparna Rao, and they have a fourteen-year-old daughter, Nikita “Niki” Mallik, who currently resides in Hawaii as a direct consequence of this matter.

d. Family Support

i. That Mr. Mallik’s family members attest to Mr. Mallik’s good character and have written letters in support of Mr. Mallik. Attached hereto as Exhibit A(1-6) and incorporated as if fully set forth herein. The letters are from Mr. Mallik’s sisters - Lekha Tull, Viji Sargis, and Pualei Pilai; Mr. Mallik’s brothers-in-law - Herman Tull and John Sargis; and Mr. Mallik’s grown adult daughter - Sara Mallik. Notably, Sara, who is an independent adult living and working in New York, states that despite Mr. Mallik’s conviction, she would have no hesitation if her fourteen-year-old sister Niki continued to be raised by her father. Specifically, Sara states:

As a young woman living and working on my own, I want to say that I would have no doubt at all or any hesitation about my father continuing to raise my 14 year old sister, Niki despite his conviction in this case as I know he is a moral and ethical man, and a caring and supportive father.

See Letter of Sara Mallik, 19 September 2017. That Mr. Mallik’s adult daughter, living and working on her own, would still assert her belief that her father is a capable parent who is qualified to raise her minor sister, despite the unique nature of these charges, is a strong testament to his fitness to remain in the community.

ii. That throughout this ordeal, Mr. Mallik’s family members have been providing Mr. Mallik with emotional support and financial assistance to help him cope with this matter. In addition, he has sought counseling to help deal with the stress of these matters, on his own initiative and outside of any probationary requirement, which is an action that speaks

well to his ability to manage stressors while living in the community; his therapist, Dr. Ling Wu, has submitted a statement as to her work with him. Please see the attached Exhibit B Dr. Ling Wu Letter to Dr. Holt.

iii. That Mr. Mallik's family members plead to Your Honor to show mercy and ask for leniency in Your Honor's imposition of Mr. Mallik's sentence. Please see the attached Exhibit A(1-6) Letters from Mr. Mallik's Family. His family support will continue and is a strong factor in mitigating against any term of incarceration.

4. **Educational and Employment History**

That throughout Mr. Mallik's entire life, he has worked hard for his family and his career, both of which are now in jeopardy.

a. That Mr. Mallik worked hard to excel in school. *See* Pre-Sentence Investigation, Attachment "College Transcript(s)," Maryland v. Mallik, No. 10-K-16-059271 (Md. Cir. Ct. Aug. 3, 2017).

b. That Mr. Mallik worked hard to support himself as he obtained two (2) Masters degrees without financial assistance.

c. That Mr. Mallik worked hard at his job, which is evidenced by his employee performance plans of the years 2007 through 2015. In each of those plans, he has been rated, at the very least, to have been "fully successful" or to have "achieved more than expected results"; he has also earned the highest rating of "exceptional" or "outstanding results" on multiple occasions. *See* Presentence Investigation, Attachment "HHS Employee Performance Plan(s)," *Mallik*, No. 16-059271. His consistently strong employment record is a significant factor in assuming the success of probation.

d. That Mr. Mallik was the only income earner of his family. Due to this prosecution, he was indefinitely suspended from his employment without pay, and he has not found employment since his suspension. As a result, Mr. Mallik and his family have been completely financially devastated; it would be a better use of the Court's sentencing options for him to remain in the community to seek employment and provide support for the family. Mr. Mallik has successfully remained on probation for nearly two (2) years with no difficulties or violations and has been given leave to make three (3) out-of-state trips during this period, including after the conviction. This demonstrates that he is able to completely adhere to probationary requirements. Therefore, a sentence that allows Mr. Mallik to remain in the community and continue to seek work would be the best outcome in light of his prior record.

e. That the future of Mr. Mallik's career is bleak and will remain so. Despite how well Mr. Mallik has performed and how hard he worked in school and in his job in the past, he will now struggle to find employment opportunities that are available to someone with these convictions and his name on the registry of sex offenders. As such, Mr. Mallik's future looks very dismal and allowing him to remain in the community to seek employment sooner rather than later would be the best means of facilitating such rehabilitation.

5. **Criminal History**

That, as stated in the PSI, Mr. Mallik has never been arrested, charged, or convicted of any crime in any jurisdiction as a juvenile or as an adult, prior to this matter. Record checks were completed with the FBI, Maryland State Police, and the Maryland District Court Information System. Other than the present case, no other criminal record was found for

Mr. Mallik. In fact, as noted above, he maintains a high-level U.S. security clearance that attests to his prior record.

6. **Presentence Psychological Evaluation and Low Concern for Sexual Recidivism**

a. **Elizabeth Holt, Psy.D.**

i. That pursuant to Your Honor's Order, dated June 5, 2017, Dr. Elizabeth Holt was tasked to complete a presentence psychological evaluation of Mr. Mallik. A thorough evaluation was conducted, taking into consideration all of the information listed in pages 2-3 of Dr. Holt's report. Dr. Holt focused on the following areas: 1) Nature of offense; 2) any record of Dangerous Behavior; 3) Prior Mental/Emotional History; 4) Degree to which criminal offense was influenced by Mental Disability, Emotional Disturbance or Substance Abuse; 5) Amenability of treatment and availability of such treatment; 6) Risk of recidivism; and 7) Sexual deviation as it relates to the convictions of Possession of Child Pornography.

ii. That Dr. Holt stated in her "Conclusions and Recommendations" the following: "Given a review of available information, my clinical interview with the defendant, as well as consideration of Mr. Mallik's historical, clinical, and risk management factors, the defendant is assessed as being at a low concern for sexual recidivism." Presentence Psychological Evaluation by Dr. Elizabeth Holt, at 13, State of Maryland v. Mallik, No. 10-K-16-059271 (Md. Cir. Ct. Sep. 19, 2017). One of Dr. Holt's observations is particularly important in terms of the benefit of Mr. Mallik's continued residence in the community rather than incarceration; Dr. Holt noted that "there is no indication that he has had ongoing and longstanding issues with other coworkers," *id.* at 12, which further favors his remaining in the community, as he should be able to successfully transition back into productive employment.

Dr. Holt also expressly noted that Mr. Mallik shows no indicia of any pedophilic disorder, any psychopathy, or any other paraphilic and/or personality disorder, *see id.* at 12-14, which speaks to the safety of his remaining in the community, a conclusion equally shared by Dr. Marshall. *See infra* § 6(b). In fact, as their reports and the summary shows, both psychologists reached the same conclusion that Mr. Mallik is at a low risk for any sexual recidivism and no other factor indicating a likelihood of any other criminal offense has been indicated. Dr. Wu's conclusion is identical, though she is providing therapeutic counseling, not an evaluation. *See infra* § 6(c).

b. LaFaye Marshall, Psy.D.

That Mr. Mallik proactively and voluntarily met with Dr. LaFaye Marshall for a psychosexual risk evaluation on July 8, 2016, before Mr. Mallik had even been charged with any crimes. The undersigned asked Mr. Mallik to undergo this evaluation based on the search and seizure of Mr. Mallik and his home on April 21, 2016 pertaining to this matter. In her evaluation, Dr. Marshall wrote, "Mr. Mallik does not appear to have key risk factors that have been empirically linked to future sexually inappropriate behaviors."¹ Dr. Marshall opined that Mr. Mallik did not exhibit antisocial behaviors or symptoms of clinical psychopathy. Further, she stated, "To that end, the data appears to indicate that Mr. Mallik is currently a low risk for engagement in future sexually inappropriate behaviors." Mr. Mallik has now been evaluated twice by well-regarded and respected psychologists, the first time prior to charges being filed against him and the second time after his conviction in a full, comprehensive evaluation. The conclusion of both evaluations is essentially the same: Mr. Mallik is a low concern for sexual

¹ It should be noted that psychosexual risk assessment measures were not administered due to the nature of the charges against him. *See* Presentence Psychological Evaluation by Dr. Elizabeth Holt, at 11, *Mallik*, No. 10-K-16-059271 (citing Psychosexual Risk Evaluation by Dr. LaFaye Marshall on July 8, 2016).

recidivism. *See* Presentence Psychological Evaluation by Dr. Elizabeth Holt, at 11, *Mallik*, No. 10-K-16-059271.

c. Ling Wu, Psy.D.

i. That over the course of this ordeal, Mr. Mallik has realized that he needed therapy to cope with his anxiety and depression. Mr. Mallik was diagnosed with Adjustment Disorder with Anxiety by Dr. Ling Wu. Mr. Mallik has been in therapy since May 5, 2017 and is committed to receiving the help he needs. *See* Presentence Psychological Evaluation by Dr. Elizabeth Holt, at 11, *Mallik*, No. 10-K-16-059271.

ii. That Dr. Wu provided a copy of the letter that was submitted to Dr. Holt, in which she states, "I want to again confirm that Mr. Mallik is an honest and decent person, and he is at a low risk for engagement in future sexually inappropriate behaviors." Please see the attached Exhibit B Dr. Ling Wu Letter to Dr. Holt.

d. That all three doctors have drawn the same conclusion-prior to trial, immediately after trial, and presently-that Mr. Mallik is a low concern for sexual recidivism. No other factor demonstrating any likelihood of criminal conduct has been identified by any of the three doctors or by the State's probation agent who indicated only the fact of conviction as a basis for incarceration.

7. State's Plea Offer

a. That prior to the jury trial, the State relied on these same facts and accepted not only that no term of incarceration was necessary but also that Mr. Mallik could remain in the community without needing to register as a sex offender, which is a demonstration

consistent with the notion that Mr. Mallik poses no continuing danger to the community. The State's plea offer in this matter was as follows:

- i. Mr. Mallik will plead guilty to one (1) count, and State will enter a *nolle prosequi* to the balance of the charges;
- ii. State will defer to Mr. Mallik's request for a Probation Before Judgment ("PBJ");
- iii. State will not seek incarceration;
- iv. If a PBJ is granted, Mr. Mallik will not be required to register as a sex offender;
- v. Mr. Mallik will serve a period of probation (the term was not specified); and
- vi. Mr. Mallik will be assessed fines and costs (the amounts were not specified).

b. That from the initiation of its prosecution, the State had in its possession all of the evidence in the case, which has not changed throughout the course of the proceedings, including through the close of trial. Based on this evidence, the State offered a plea bargain stipulating that Mr. Mallik would not be incarcerated and, if Your Honor granted a request for a PBJ, he would not be listed as a sex offender. If the plea offer had been accepted and PBJ granted, there would have been no notice to the public regarding Mr. Mallik as a sex offender, which the State clearly did not deem required in Mr. Mallik's case. The State's plea offer, prior to the jury trial, demonstrates the State's acknowledgment that Mr. Mallik does not present any danger to the community and, given that all of the evidence remains the same, provides a strong presumption against any term of imprisonment.

c. That in essence, the State's position with regard to Mr. Mallik's case prior to trial stands inconsistently with the conclusion of Mr. Mallik's jury trial. Despite the unchanged factors of the case, the State turned around and sought to revoke Mr. Mallik's bond,

opposed Mr. Mallik's request for a bond review, and filed an emergency bond review the day after Mr. Mallik was released, which supports what Mr. Mallik has felt that the current position of the State with respect to sentencing, as opposed to its earlier position, effectively punishes him for exercising his right to a jury trial.

8. **Minor Children**

That Mr. Mallik does not place minor children at risk.

a. That Mr. Mallik is repulsed by child pornography and stated this during his voluntary interview with Det. William Elrod, before charges were even filed. Mr. Mallik also testified at trial, under oath, how repulsed he is by it. Dr. LaFaye Marshall, who evaluated Mr. Mallik prior to charges being filed against him, and the State's own psychologist, who evaluated Mr. Mallik after his conviction, both concluded that he has no actual interest in child pornography nor have they cast professional doubt on the genuineness of his denials of such interest. As psychologists are trained to observe and detect false disclaimers, the absence of any such observation strongly supports the conclusion that it is safe and appropriate for Mr. Mallik to remain in the community, rather than a term of incarceration.

b. That Mr. Mallik testified under oath that he never had contact with minor children in any manner suggested in this matter; Dr. Holt noted the absence of any such contact in connection with these charges. *See Holt at 13.*²

c. That during trial, the State's witness and lead investigator, Det. Jayson Snyder, testified on the stand that actual, real live children were *not* involved in this case in any way. The following exchange occurred during the defense's cross-examination of Det. Snyder:

² Dr. Holt expressly stated, "[I]t is important to note there was no physical contact between him and any of the victims, nor does [he] have a history of sexual contact offenses"; she also noted that there is no substantiated evidence that he had or initiated any internet or other communication with minors. Holt at 13.

- i. MS. CHOI: -- personally? Okay. Thank you. Now, with regard to all of the counts that are involved, 1 through 11, were there any actual real children involved in those counts, or are they just -- not just, and I don't say it lightly -- were they images of child pornography?
- ii. [DET. SNYDER]: There were images of child pornography that depict children.
- iii. MS. CHOI: Okay. Were any real live children in any aspect of this case where they would have been hurt or abused?
- iv. [DET. SNYDER]: Not to my knowledge.

Please see the attached Exhibit C May 31, 2017 Trial Transcript ¶¶ 131.³ Dr. Holt confirmed the absence of any such contact in this record, *see* Holt, *supra*, n.2, and expressly noted, “Moreover, while he was in possession of child pornography and erotica, there is no indication that Mr. Mallik manufactured or distributed these images.” Holt at 13.

d. That the State’s Computer Forensic Analyst testified that the photographs involved are more than a decade old, which again demonstrates the absence of any involvement or connection between Mr. Mallik and any minor, further mitigating factors that led each psychologist to find a low risk of sexual recidivism.

³ The undersigned, during the course of its defense investigation, personally reached out to various individuals who were possibly involved in the email exchanges that the State claims were communications between Mr. Mallik and minor children. Det. Snyder testified that the emails in question were incoming, not outgoing emails from Mr. Mallik to the alleged minors. As such, the undersigned was able to determine the names of the individuals who had phone numbers that appeared in Mr. Mallik’s Gmail account and simply reached out to them to determine whether they were, in fact, minors. They were *not* minors. Further, the undersigned confirmed with the individuals who responded that they *never received any contact from law enforcement or Det. Jayson Snyder regarding this case* to determine whether they were minors or whether they were even involved with Mr. Mallik. Det. Snyder did testify that he did *not* reach out to the various individuals, except for one. That one alleged minor was *Ms. Zoey Allen, who had absolutely no idea who Mr. Mallik is or if she had contact with him*. Det. Snyder admitted while testifying on the stand that all messages from Ms. Allen were inbound, and that no messages were outbound from Mr. Mallik. In addition, Det. Snyder testified that he had no direct contact with Ms. Allen, instead relying on information provided by law enforcement in Georgia, and that he received Ms. Allen’s cell phone, but that no information was retrieved because the phone was inoperable. Such factors were a significant aspect of Dr. Holt’s finding of a low risk of sexual recidivism.

e. That under the Sentencing Guidelines, Victim Injury is a factor of the Offense Score(s). No victim injury has been indicated for Mr. Mallik.

f. That there is no Victim Information because the photographs involved are from 2006, more than a decade ago.

g. That further, Mr. Mallik was neither charged nor convicted for having contact with minors to solicit photography or for posing minors in a pornographic nature or in any other improper manner.

9. **Incarceration**

That Mr. Mallik served five (5) days and four (4) nights in jail.

a. That on June 2, 2017, upon the State's request for a bond revocation after the conviction, Judge Scott Rolle revoked Mr. Mallik's bond. *However*, upon the defense's objection, Judge Rolle instructed the defense to file a motion for a bond review, which Mr. Mallik did that day.

b. That after serving five (5) days and four (4) nights in jail, on June 6, 2017, Mr. Mallik's motion for bond review was granted by Judge Richard "Ricky" Sandy, after considerable arguments were presented by both parties.

c. That Mr. Mallik has never been arrested or charged with any crimes prior to this matter and had never experienced being incarcerated, prior to June 2, 2017.

d. That Mr. Mallik was held at the Frederick County Adult Detention Center beginning June 2, 2017 and released late in the evening of June 6, 2017.

e. That from the first day of this incarceration and throughout, Mr. Mallik was held in solitary confinement for his own safety, due to threats that Mr. Mallik overheard and

caused him to be fearful for his life. He spent twenty-three (23) hours a day in solitary confinement.

f. That over five (5) days and four (4) nights of incarceration, Mr. Mallik lost six (6) pounds in weight, presumably due to fear of attack by other inmates given the nature of his conviction charges.

g. That on June 7, 2017, the day after Mr. Mallik's release, the State filed its Emergency Motion for Second Bond Review. At the Emergency Bond Review, the State's motion for bond revocation was again denied, because nothing had changed since the date Mr. Mallik was charged, since the date he was on trial, since the date he was convicted, and since the date he was incarcerated. Nothing changed and no facts have emerged at any time in this process, from the time of the State's plea that involved no incarceration and no registration through the trial and the post-trial bond reviews.

In all respects, at all times, the Court has already found no need for incarceration; moreover, during the pendency of the trial including after conviction, the State did not object to Mr. Mallik leaving for out-of-state, multi-day trips for religious purposes that were unsupervised except for telephone call-in. That the State probation and parole team found it appropriate for Mr. Mallik to be permitted unsupervised presence in the community and to be permitted unsupervised out-of-state trips demonstrates the absence of any substantive concern or belief that he is a risk to the community or at risk of any further offenses. Notably, over the past 21 months since his arrest, he has fully complied with all probationary requirements, including when out of state, which is further indicia that he is an ideal candidate of probation.

h. PSI Recommendation

- i. That the PSI Recommendation states that incarceration is appropriate, but merely “[d]ue to the nature of these offenses and the age of the victims in this case.” Presentence Investigation, at 6, *Mallik*, No. 16-059271.
- ii. That further, it is asserted by the State that Mr. Mallik should be sentenced as set forth in the MD Sentencing Guidelines.
- iii. That the final sentence of the PSI Evaluation states that if Mr. Mallik is released to a community-based supervision program in the future, he should be ordered to pay all fines, costs, and fees.
- iv. That the State’s recommendation for incarceration is based solely on the charge itself; it is not based on whether punishment or rehabilitation is necessary so that the charged offense does not happen again, a conclusion that is already foreclosed by the psychological reports that show low risk of recidivism, if at all, and by Mr. Mallik’s record pre- and post-trial on probation, which exhibits zero violations and full compliance in all respects.
- v. That the PSI identifies no factors other than the conviction to support incarceration. Certainly, if Mr. Mallik’s personal or criminal history and/or his psychological record made him a threat to the community, the PSI would have identified such factors in the report. Silence as to any factors other than the conviction to support a recommendation of incarceration mitigates against the imposition of any jail term. Moreover, since the Legislature has given the Court discretion to avoid incarceration for this offense, the mere fact of the conviction, without more, is not sufficient to support a term of imprisonment for this particular matter based on Mr. Mallik’s unique circumstances.
- vi. That a term of incarceration is not required nor beneficial to Mr. Mallik or the community, but if, after considering all of the above-referenced information,

having heard all of the testimony, and observing all of the State's witnesses and defense witnesses during the jury trial, Your Honor truly believes incarceration is appropriate, Mr. Mallik respectfully requests that Your Honor consider home detention as an alternative, which as set forth below, will more than adequately provide for any punitive or rehabilitative need.

10. **ASAP Home Detention**

- a. That ASAP stands for Advantage Sentencing Alternative Programs, Inc.
- b. That Mr. Mallik has met all of the requirements of the program and has been pre-approved.
- c. That Mr. Mallik fully understands the "Participant Rules and Agreement."
- d. That specifically, Mr. Mallik "must wear a transmitter device that is installed on his ankle, twenty-four (24) hours a day as long as he is involved in the program."

Please see the attached Exhibit D ASAP Home Detention Pre-Approval and Proposed Order.

- e. That as shown by Exhibit D, the ASAP proposed order, this form of home detention is a substantive and material form of incarceration requiring continuing attendance in the ordinary living quarters of the home, no outside time on the grounds, and required presence only in the house; it would allow highly limited community visits in the form of four-hour visits once a week to a religious service, two-hour legal or medical visits, and a four-hour outside trip once a week to undertake food purchases, bill paying, and the like. It will also include spot and surprise inspections to the home at any hour and continued electronic monitoring.

In all other respects, a defendant in the ASAP program is under 24-hour, seven-day weekly home confinement, a substantive form of confinement that effectively serves a punitive and rehabilitative purpose without the risk of harm that will likely arise in prison due to

the nature of these charges and without the greater punishment of institutional incarceration for an offense the Legislature has deemed not subject to mandatory imprisonment.

11. **Compliance and Supervision**

a. That after the jury trial, the State requested that Mr. Mallik's bond be revoked; it was granted by Judge Scott Rolle. However, upon Mr. Mallik's motion for bond review, this Honorable Court granted Mr. Mallik's motion, and he was released in the late evening of June 6, 2017.

b. That immediately upon his release, Mr. Mallik did the following to comply with this Honorable Court's bond conditions:

- i. Made arrangements to have his fourteen-year-old daughter reside with her aunt in Hawaii;
- ii. Purchased a flip phone that has no ability to be connected with the internet;
- iii. Proactively sought to become pre-approved for private home detention monitoring services for twenty-four (24) hours a day, seven (7) days a week;
- iv. Made contact with Brandy Kaiser to register as a sex offender in compliance with applicable laws;
- v. Checked in with Parole and Probation and reported as necessary; and
- vi. Cancelled his internet service.

c. That despite all that Mr. Mallik has done to ensure the safety of the community and comply with the strict bond conditions, the State nevertheless filed an Emergency Second Bond Review a day after Mr. Mallik's release; the Emergency Second Bond Review to revoke Mr. Mallik's bond failed at the hearing on June 15, 2017. In rejecting the State's demand, this Court stated that there was essentially no basis for revoking Mr. Mallik's

bond since nothing has changed and the factual record remained the same as in the pre-trial, trial, and first bond review phases.

d. That, per the PSI, four (4) home visits were completed on June 20, July 3, August 23, and September 7, 2017 with absolutely no problems.

e. That Mr. Mallik called in by telephone every day.

f. That the PSI further states that Mr. Mallik was placed on pre-sentence supervision and has met the expectations of his supervising agent.

g. That, essentially, Mr. Mallik has been in full compliance since the date he was charged, nearly a year ago, and has not had any new charges of any kind, in any jurisdiction.

h. That since his conviction, Mr. Mallik recognized that he was under tremendous emotional strain and stress and therefore sought counseling from Dr. Wu on his own initiative, which demonstrates a high level of insight, self-assessment, and proactivity, exemplary qualities to possess for successful residence in the community.

i. That since the conclusion of trial, Mr. Mallik has successfully completed three (3) authorized out-of-state trips for religious purposes to New Jersey and Pennsylvania, with no violations of any kind during this unsupervised travel, which further confirms Mr. Mallik's low risk to the community.

j. That based upon the same record set forth in this memorandum, Dr. Holt, the State's consulting psychologist, did not recommend any form of incarceration; certainly, where the State's own sexual offense evaluator makes no affirmative recommendation for incarceration-neither institutional nor home-this should be given great deference by the Court in a

case where incarceration is not mandatory, a legislative judgment as to the lesser gravity of this offense compared to other classes of sexual offense.

12. **Conclusion**

For the foregoing reasons, Mr. Mallik respectfully prays that Your Honor:

- a. Grant Mr. Mallik a Probation Before Judgment pursuant to Maryland Criminal Procedure Code § 6-220; or in the alternative,
- b. Sentence Mr. Mallik to a period of home confinement under Court order, and allow Mr. Mallik to be heard on a modification motion of the sentence, to be held in abeyance until such time that Mr. Mallik can earn a Probation Before Judgment to Your Honor's satisfaction.

Respectfully submitted,

DC Metro Law, LLC



By: SUN E. CHOI, ESQUIRE
7820B Wormans Mill Road, Suite 154
Frederick, Maryland 21701
(202) 630-9529 Office
(301) 500-3135 Fax
schoi@dcmetrolaw.net

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 2, 2017 a copy of the foregoing Defense Sentencing Memorandum was hand-delivered and sent via electronic mail to: Joyce King, ASA

Office of the State's Attorney For Frederick County, 100 West Patrick Street, Frederick,
Maryland 21701.



Sun E. Choi, Esquire

EXHIBIT A(1-6)
LETTERS FROM FAMILY

19 September 2017

RE: Abe Arjun V. Mallik

Honorable Judge Michael Galloway

My name is Sara Mallik. Abe Mallik is my Father. I have been living for years in NYC and am currently managing a jewelry store on Madison Avenue. I spent most of my childhood growing up in Connecticut with my grandmother for my education and seeing my father every weekend we could see each other. Since he had joint custody of me he always made an effort to be as involved in my life as possible and see me as often as he could.

I've always known my dad to be a kind and loving individual who above all cares for his family. For my sister and I this has been a devastating experience to watch our father go through. I am 25 years old and still seek my father's guidance and wisdom, but the one who really needs it the most is my younger sister Niki. She has just begun high school and is in a place where she needs her loving and supportive family all together to help mentor her through this developmental stage of her life.

As a young woman living and working on my own, I want to say that I would have no doubt at all or any hesitation about my father continuing to raise my 14 year old sister, Niki, despite his conviction in this case as I know he is a moral and ethical man, and a caring and supportive father.

My dad has devoted his life to working hard; his character and loving nature have always served as an example for me going into the later stages of my life. It is absolutely heartbreaking to even think of the possibility of my father being in jail and not being able to see my sister and I take all that he's taught us and flourish in life.

My father now faces the possibility of losing all that he has worked for and not being able to be with his children. I please ask you to consider my father's case with leniency as he has only ever been a man of strong family values who isn't capable of committing a crime like this. We need our father in our lives as our mentor, our friend and parent.

Sincerely,



Sara Mallik

Lekha Tull, DDS, MAGD, DABDSM
228 Terhune Road
Princeton, NJ 08540

The Honorable Michael M. Galloway
Judge, Circuit Court for Carroll County, MD

8 September 2017

RE: Abe Arjun V. Mallik

My name is Lekha Tull. I reside in Princeton, NJ, where I own and operate a solo dental practice. I have been a practicing dentist for over 30 years. My husband, Herman Tull, is a college professor. We have been married for forty years and we have two sons.

Abe Mallik is my younger sibling and my only brother. When we were young, our family experienced economic struggles, and Abe committed himself from a young age to helping our parents. Abe began his career working in low-level retail management positions. But, through a combination of hard work, and a tenacious will to gain a graduate education (while working full-time), Abe found employment in healthcare management, leading to his current position with the federal government. Abe's commitment to his career has allowed him to provide a good home and a stable family life for his wife and his children.

Abe and I grew up in a close family. We were eight: six children and our parents. Our parents instilled strong values in us. Abe and I also had the good fortune of being in close geographic proximity, so we have seen each other frequently during our adult lives. Knowing Abe as I have for my entire life, I can fully attest to the strong values Abe has in matters of family life, employment, and the religion in which we were raised.

Abe's one and only priority in life is the well-being and the happiness of his wife and children. Abe thinks little of his own needs when it comes to his family. He takes full responsibility for the household, and also for his children's well-being. Abe is justly proud of their accomplishments.

It seems impossible to believe that Abe has now been convicted of a very serious crime. I know Abe cooperated fully with the investigation prior to his conviction, and his attitude in this regard reflects his respect for the legal system. This attitude is also clear from his utmost compliance with all elements of his probation following his conviction.

I appeal to the court to show leniency to this man, who I know to be a devoted brother, husband, and father, and who has worked so hard and achieved so much in his life. The values for family we grew up with are still strongly present in Abe's family life today. To remove Abe from us, his sisters and his wife and children, would hurt us all. Abe has no prior convictions, and the entire process has been a shock to him, as well as a terrible shock to our entire family.

Sincerely,



Lekha Tull

Herman Tull, Ph.D.
228 Terhune Road
Princeton, NJ 08540

The Honorable Michael M. Galloway
Judge, Circuit Court for Carroll County, MD

8 September 2017

RE: Abe Arjun V. Mallik

My name is Herman Tull. I am currently Visiting Associate Professor in Religious Studies at Lafayette College (Easton, PA), where I teach courses in the history of religions and in religious ethics. Prior to my employment at Lafayette College, I held faculty appointments at Rutgers and at Princeton University.

Abe Mallik is my wife's brother. I first met Abe in 1976, the year I met my wife, Lekha Tull. Over the past forty years, I have seen and spoken to Abe countless times. I have stayed in his house, and he has stayed in mine, and we have had many frank discussions of his work, his family, and his outlook on life.

First, and foremost, I know Abe to be a committed family man. Although Abe's first youthful marriage did not endure, Abe's commitment to his daughter (who is now an adult) from that first marriage was unflagging. Despite changes in employment, location, and even marital status, Abe tenaciously maintained a schedule of caring for her on weekends.

Abe's second marriage has been long-lasting. His wife and his daughter from this marriage are the center of Abe's life. Despite an extensive commute and a demanding job, Abe maintains a high level of involvement in his daughter's development, from assiduously monitoring her schoolwork to ensuring that she participate in a range of activities (she is an accomplished musician and writer). Abe is not just the bread-winner for his family, but he is also the "chief cook and pot-washer," and does not shy from any and all household chores. For Abe, work and home constitute a full life.

Abe was raised in a religious home, and, throughout his adult life, Abe has maintained ties to his religious upbringing. Although he is a member of a congregation in Pennsylvania (a result of his many years living in western New Jersey), he attends religious services wherever he happens to be, and is not averse to attending even among other denominations. As part of his religious life, Abe takes seriously the concept of service to others, volunteering his time, when he can, to serve the needy.

I know Abe Mallik to be a man of good character, with strong family values, and a clear understanding of religious morality. He is highly educated, and for decades has been employed in positions of responsibility. Taken together, Abe's character and his accomplishments evidence a person that has devoted a lifetime to making a positive contribution to his family and to the society in which he lives.

Abe Mallik now faces the loss of all that he holds dear, and all that he has devoted himself to in a life lived more for others than for himself. I speak now from my heart and urge the court to consider Abe's current legal struggle with the utmost compassion and to grant him the utmost leniency in whatever decision is now to be made.

Sincerely,



Herman Tull

Viji Sargis Ph.D.
326 Redwood Avenue
Paterson, NJ 07522

Sept. 19, 2017

RE: Abe Arjun V. Mallik

Honorable Judge Michael Galloway,

My name is Viji Sargis, I live in Paterson New Jersey. I served on the City of Paterson School Board for a number of years. I care very deeply about education and justice; advocating for children to get the best possible opportunities for advancement is very important to me and my family shares in my passion for justice. Currently I teach in the Women and Gender Studies Department at William Paterson University in Wayne, New Jersey. I have been teaching at this university since 1994. The course I currently teach is "Race gender and Social Justice." I have also taught at Rutgers University, Fairleigh Dickinson, Passaic County Community College.

Abe Arjun Mallik is my brother, and I love him dearly and cherish the time we spend together. My brother is very well educated, hardworking and well respected and trusted by his peers and employers. He is a good and decent human being, he loves his family deeply and his duty to his family is unwavering. My children love him unconditionally; they hold many fond memories of their time spent together with their dear uncle. We know him to be a person of integrity and honesty, we also know him as a person we can depend on. It is heart wrenching to see what is going on with him and his legal difficulties.

Our parents instilled in us values to be compassionate, ethical, moral, just, loving, caring and to pursue excellence in all we do and to be good and decent humans. All my siblings are successful in their field and very highly educated thanks to the values instilled in us by our parents. Like my father my brother devotes his life and time in helping his children achieve excellence in academics, sports and the arts. He always puts the needs of his children and wife ahead of his own. He would never do anything to jeopardize his family. My father served in the RAF during WWII, and later on as a Police Chief, he impressed upon us the importance of service to family, community and country. He was fair and just and taught us to be fair and just and always help those in need. Pursuit of excellence, service to family, community and country are prime values our father imparted to us and I know these are values my brother lives by.

I implore the court to be lenient and merciful to Abe Mallik. My brother is a devoted family man and he stands to lose all that he holds dear, and his family cannot survive without him. He is a very important part of his family, and he has made and continues to make positive contributions to life.

Sincerely,



Viji Sargis

John Sargis
326 Redwood Avenue
Paterson, NJ 07522

September 13, 2017
Honorable Judge Michael Galloway
Re: Abe Arjun V. Mallik

Your Honor,

My name is John Sargis. I am a retired Paterson Public School teacher where I taught biology at John F. Kennedy High School for twenty-six years.

Abe Mallik is my brother-in-law through marriage to his sister Viji with whom I have been married for forty-two years. I met Abe when he was twelve years of age. When I was a stranger in his country, he invited me to his house for tea. Throughout these forty-three years I have observed Abe grow from adolescence into a responsible adult. When he immigrated to this country, he lived with us for several months until he found work, a place to live and after some time he became a citizen. During these decades we have had and continue to have countless germane conversations on a multitude of subjects and topics. This letter is a brief testimony about the kind person I know Abe to be.

Abe is dedicated to his family, friends and his profession. These are the people and work that are important to him. His devotion to his two children and wife is indefatigable as he is proactive in their lives. He has undergone the same type of life situations and experiences we all have and he has become a strong, successful and professional person. He has a sense of humor, seriousness, fortitude and knowledge that has given him a firm grasp on life. I have never seen him waver or neglect responsibility to his family, work and community.

Abe's morals are not enigmatic. He holds the highest ethics to which he gages his life. I have never seen him veer off that course. He has been prudent and forthright, since I met him. Abe is unwavering to family and community, and continues today his enthusiasm for his wife, children and civic life. His sincerity has never been questioned. He volunteers his time to help the needy where he worships. Abe has taken on responsibilities successfully. His educational qualifications beyond bachelor's degree have enabled him to expand his knowledge and obtain excellent employment. All these undertakings have proved that Abe is responsible, independent and honest. He takes decisions based on his authentic character and concern for others.

Today, Abe faces to lose all that is vital to him. His family as well will suffer this loss as they are inexorably entwined. I implore the court, when rendering its decision to consider Abe's decade's long steadfast commitment to family and community values. My hope is for an empathetic and humane decision to be made by this court.

Sincerely,



John Sargis

September 19, 2017

Honorable Michael M. Galloway
Circuit Court for Carroll County, Md.

Dear Judge Galloway,

My name is Pualei Pilai. I live in Honolulu, Hawaii. Abe Mallik is my brother. I am the youngest of 5 sisters.

Although my brother is younger than me, he was always very protective of me. We are a very close knit family. I love my brother dearly. We grew up in the most loving family environment.

I have always known him to be a very devoted father and husband. As long as I can remember he has always been a man of his word. He always thinks of the well-being of others well before his own. This whole episode seems completely out of character for him. Abe is man of character.

I have had the opportunity to spend some time with my niece, Nikita, who is Abe's daughter. She is very compassionate about her father, and this ordeal has caused us unimaginable grief. Through it all, I have seen what a remarkable job Abe has done raising her and what a positive influence he has been for her. There is a lot of love between father and daughter.

Abe has been a crucial parental figure to, and has always endeavored to set a positive example for Nikita as she has grown up. They are inseparable. If he is not available to Nikita, as her father, it will have a devastating effect on her.

I humbly approach you in the form of this letter, asking you for leniency for my brother. This is the first and only time he has been accused of committing a crime.

With the strength of my deceased mother and father, I implore you to be lenient to my brother.

Sincerely,



Pualei Pilai

9/19/17

EXHIBIT B
Ling Wu, Psy.D.
Letter to Elizabeth Holt, Psy.D.

Elizabeth Holt, Psy.D.
BHA Community Forensic Evaluator
P.O. Box 442
Millersville, MD 21108

RE: Mallik

September 21, 2017

Dear Dr. Holt,

I am writing to update Mr. Abe-Arjun Mallik's treatment progress. While September 27 is approaching, he has understandably more anxious; yet, he has been very strong.

I want to again confirm that Mr. Mr. Mallik is an honest and decent person, and he is at a low risk for engagement in future sexually inappropriate behaviors.

If you have any questions, please do not hesitate to call me at 240-285-0047. Thank you.

Sincerely,

Ling L. Wu, Psy.D.
Psychologist
Maryland #04539

EXHIBIT C
May 31, 2017 Transcript Excerpt

IN THE CIRCUIT COURT FOR FREDERICK COUNTY, MARYLAND

-----X
STATE OF MARYLAND

v.

ABE ARJUN MALLIK,

Defendant.

:
:
:
: Criminal No. 10-K-16-059271
:
:
:
:
:
:
-----X

JURY TRIAL

Frederick, Maryland

May 31, 2017

DEPOSITION SERVICES, INC.
12321 Middlebrook Road, Suite 210
Germantown, Maryland 20874
(301) 881-3344

1 Q Fair enough. Did you try in any way to plug in the
2 iPad to see if it would work?

3 A I'm trying to remember. I know I handed it to, to
4 the device. I don't know if I -- I don't know if I physically
5 plugged it in. I don't remember, ma'am.

6 Q But you don't remember if you actually physically
7 took a piece of evidence, and instead of just handing it over
8 to the forensic computer analyst, you don't remember if you
9 actually plugged it in to see if it would work?

10 A His office is right down the hallway. I could have
11 been there while he plugged in. I don't recall.

12 Q Okay. The question is, did you --

13 A I don't recall, ma'am.

14 Q -- personally? Okay. Thank you. Now, with regard
15 to all of the counts that are involved, 1 through 11, were
16 there any actual real children involved in those counts, or are
17 they just -- not just, and I, I don't say it lightly -- were
18 they images of child pornography?

19 A There were images of child pornography that depict
20 children.

21 Q Okay. Were any real live children involved in any
22 aspect of this case where they would have been hurt or abused?

23 A Not to my knowledge.

24 Q Okay. Did you have a chance to -- when you took the
25 opportunity to look into man@maryland@gmail.com, which is the

EXHIBIT D
ASAP Home Detention Pre-Approval

**Advantage
Sentencing
Alternative
Programs, Inc.**



309 E. Joppa Road
Towson, Maryland 21286
Office: 410-832-1717 • Fax: 410-832-1719

14760 Main Street, Suite 103
Upper Marlboro, MD 20772
Office: 301-456-3705

3697 Park Avenue, Suite 200
Ellicott City, MD 21043
Office: 410-832-1717

Sun Choi, Esq.
319 W. Patrick St
Frederick, MD 21701-

06/06/17

RE: **Abe A. Mallik**

Dear Sun Choi, Esq.,

Please be advised that the above referenced client is a potential candidate for home monitoring through Advantage Sentencing Alternative Programs, Inc. Abe A. Mallik would be an acceptable candidate for the program should the Court order them to participate. The terms and conditions of the home monitoring program have been attached for your review.

Should the Court determine that our program is a suitable alternative, please make certain that any Court Order specifies any activities in which the client is permitted to participate. This should include items such as employment, counseling, and other times when the client will be permitted to be away from his/her residence. It will be necessary that a copy of the court order be delivered or faxed to our office immediately following the sentencing hearing.

The electronic monitoring program can be initiated on the date of sentencing if required by the Court.

If you should need any additional information, please do not hesitate to call.

Very truly yours,

Danielle Winchester
A.S.A.P., Inc.

Enclosure

Advantage Sentencing Alternative Programs, Inc.

309 East Joppa Towson, MD 21286

Office: 410-832-1717 Fax: 410-832-1714

RE: Attorney Information
Home Detention

Dear Attorney:

Thank you for your interest in our company, Advantage Sentencing Alternative Programs, Inc. We are a privately owned and operated home detention company located in Towson, Maryland. We offer Pre and Post trial monitoring nationwide and provide the lowest minimum daily fee in Maryland.

Our office can evaluate your client prior to his or her court date and provide you with a letter stating that they have been accepted into the program, and the preliminary paperwork has been signed. If your client is incarcerated, a family member can contact us, and they can provide us with all of the information needed. We can then send you a modified acceptance letter stating your client has been accepted, and will sign all necessary paperwork once he or she is released. Enclosed is a review of our rules and regulations.

The requirements for our program are as follows:

- ▶ Client must have a stable residence in which to live.
- ▶ Basic land line monitoring is least expensive. No special features (ie. call waiting, voicemail, call intercept, 800 block, etc.). ASAP has monitoring options that do not require a phone line.
- ▶ Must have a long distance carrier (no 800 or 10-10 numbers).
- ▶ Must have means in which to pay the fees. \$160.00 evaluation and modified acceptance letter fee. \$100.00 hook-up fee, and a daily fee to be determined at the time of hook-up; based on a sliding scale, minimum of \$10.00-\$15.00 per day. Fees are also determined by the type of monitoring required.

The following paperwork is must provided at the time of hook-up:

- ▶ Must have a photo ID, as required by law.
- ▶ Must present a copy of the most recent phone bill, as required by law.
- ▶ Must present a copy of the lease mortgage renters agreement, as required by law.
- ▶ Must have employment name, address, telephone number, and supervisor information.
- ▶ **MUST HAVE A COPY OF THE COURT ORDER SIGNED BY THE JUDGE. (This must state the amount of time to be served and any activities the client is permitted to attend.)**
- ▶ **Must be faxed or mailed to our office IMMEDIATELY following the sentencing hearing.**

If your client is court ordered to serve time on home detention, they must contact our office within twenty-four hours of their release.

If you have any questions, please do not hesitate to contact our office.

Advantage Sentencing Alternative Programs, Inc.
309 East Joppa Towson, MD 21286

Office: 410-832-1717 Fax: 410-832-1719

PARTICIPANT RULES AND AGREEMENT

1. I am participating voluntarily.
2. I have a stable residence in which to live.
3. If my monitoring equipment communicates through a home telephone line, it must be a standard and private home telephone line with no additional features (caller ID is acceptable, but NO other features such as voicemail, call waiting, three way calling, forwarding, call intercept, etc.), and the phone line must have long distance. GPS monitoring does not use a phone line. SCRAM and radio frequency monitoring can be done with or without a home phone line. Rule #4 and Rule #5 only apply to monitoring using a home phone line.
4. I will not answer my home phone until after it rings two (2) times.
5. When using the telephone, if I hear a machine cutting in, I understand that I must hang up, and wait at least fifteen (15) minutes before using the phone again.
6. I agree to wear a transmitter device that is installed on my ankle, twenty-four (24) hours a day for as long as I am involved in the program. I will only allow a member of A.S.A.P., Inc. to remove it.
7. I agree to have a device called a "home monitoring unit" (HMU) installed in my home. I agree that a representative from A.S.A.P., Inc. may enter my residence for the purpose of checking this device.
8. I understand that my participation in the A.S.A.P., Inc. Home Detention Monitoring Program is Court Ordered and any violation with A.S.A.P., Inc. will be reported to the Court. I additionally understand that a violation of the home detention order or agreement may be considered an escape and subject to prosecution and imprisonment.
9. I agree that I will be careful in wearing the transmitter and using the equipment while it is in my possession and not perform any activity that would be unsafe to me because I am wearing this equipment.
10. I agree that I will be responsible for the costs of repairing or replacing the equipment if it is damaged by me, my family, or any other party. The costs for replacement are listed on the equipment responsibility form.
11. I understand that if I notice the equipment is not working properly, or in the case of a natural disaster (fire, flood, storm, etc.), I will contact an A.S.A.P., Inc. agent immediately.
12. I agree that I will not submerge the transmitter in water. While bathing I must have my leg over the side of the bath tub, out of the water. While showering, I understand that I must thoroughly cleanse the area around the transmitter with soap and water, and dry underneath. I understand the transmitter, straps, and all parts of the equipment are hypoallergenic and will not cause any type of harm to my body.
13. I must provide the following to verify my identity: in possession of Court Documents, MVA issued drivers license or age of majority (Photo ID) card, employment or any other type of Photo ID card. Copies of these documents will be placed in my file at the time of enrollment.

CLIENT INITIAL _____

Advantage Sentencing Alternative Programs, Inc.
309 East Joppa Towson, MD 21286

Office: 410-832-1717 Fax: 410-832-1719

4. I understand that I must provide A.S.A.P., Inc. with a copy of a current phone bill and Lease/Mortgage/Renters Agreement within fourteen (14) days of my enrollment in the program. Copies will be placed in my file.
5. I agree and understand that A.S.A.P., Inc., its Agents, and Employees are forever held harmless and blameless from any liability whatsoever arising from the use of the Home Detention Monitoring System. I give this release without any reservation of any kind.
6. I am aware that if I have a complaint about A.S.A.P., Inc. or one of its agents I will submit this in writing to Mr. Winchester.
7. I agree and understand that my sentence requires me to be confined to my residence subject to the curfew schedule set by A.S.A.P., Inc. and the Court. Residence is defined as the physical building in which the client lives, and as far as the monitoring equipment allows inside of this building. It does not include basements, attics, outbuildings, garages, sheds, and land surrounding the residence.
8. I understand that if I have a medical emergency I must contact an A.S.A.P., Inc. agent immediately and provide valid verification within 24 hours of leaving my residence.
9. I agree that I will not use alcoholic beverages or drugs of controlled/uncontrolled substances unless my doctor prescribes them for me. I must provide copies of all prescriptions to A.S.A.P., Inc.
10. I understand that I am required to submit to random drug/alcohol tests/urine samples and/or breath alcohol tests and such at my own expense, at the discretion of a member of A.S.A.P., Inc. and the Court. I understand that I am not to use the restroom at A.S.A.P., Inc. without permission.
11. I agree and understand that A.S.A.P., Inc.'s agents and employees will not provide me with food, clothing, shelter, medical, and/or dental care while I am participating in the program.
12. I understand that A.S.A.P., Inc. does not discriminate against Race, Religion, Gender, Sexual Orientation, Economic Status, Origin, Etc.
13. I irrevocably authorize A.S.A.P., Inc., its agents, and employees to communicate with and report (written and verbal) to the Court, my probation officer, and my attorney, any information pertaining to my participation in the A.S.A.P., Inc. Home Detention Monitoring program. I additionally authorize the person(s) that I have listed to have access to my file at the time of my hook-up, to be able to obtain this information.
14. I understand that if I, or any of the above listed parties would like access to my case records, they can be obtained by submitting a written request to the A.S.A.P., Inc. office. Records are subject to a fee of \$10 per page.
15. I agree to provide to A.S.A.P., Inc. a copy of all correspondence related to my case that is prepared by myself or counsel directed to my court of record. Correspondence shall include letter Court Order or modifications thereto. If such correspondence results in a court appearance, A.S.A.P., Inc. must be notified at least ten days prior to the court date.

CLIENT INITIAL _____

Advantage Sentencing Alternative Programs, Inc.

309 East Joppa Towson, MD 21286

Office: 410-832-1717 Fax: 410-832-1719

26. If an A.S.A.P., Inc. agent is needed to appear in court for any reason, there will be a \$100 fee for this service.

27. I agree to submit schedules in writing by fax or email, no later than 3PM the day prior to my requested leave or by 3PM Friday for weekend leaves. No exceptions, and no verbal requests will be accepted. I am required to call 15 minutes after submission to confirm approval.

28. I agree to submit written verification of all activities that are performed outside of my home.

ALL ACTIVITIES MUST BE ALLOWED BY COURT ORDER.

A. I agree to submit verification of weekly work hours. Verification should be originals or copies of pay stubs. Verification of employment must be from an independent source. I must notify ASAP immediately of any change in employment.

B. I agree that all activities outside of home or work that are permitted and pre-approved must be verified.

Religious Service: Get a bulletin with the name, address, and phone number of the place of worship. Have the service officiant sign next to the date. **Only if allowed by Court Order.**

2. AA/NA meetings/counseling: Name, Location, Telephone Number, Date and Time. Stamped attendance record. **Only stamped meetings permitted.**

3. Personal time for activities necessary to maintain the household and/or personal hygiene: Receipts with Date and Time, Signed and Dated.

Business cards. **Only if allowed by Court Order.**

C. I agree that if I am allowed to participate in any of the above activities, I am to use the following time guidelines:

1. Religious service: Permitted to attend one service per week for a maximum of 4 hours, including travel. This must take place between 8:00am and 7:00pm.

2. AA/NA meeting/counseling: Permitted 2 hours to attend one meeting per day, and must return home and be in range by 11:00pm.

3. "Personal Time": Permitted a maximum of 4 hours, including travel time, one time per week, between the hours of 8:00am and 7:00pm.

29. All allowable activities are at the discretion of A.S.A.P., Inc. and activities may be revoked at any time. A.S.A.P., Inc. reserves the right to require GPS monitoring at any time, at an additional cost.

30. I understand that when I leave my home I must immediately and directly report to my authorized destination and return immediately home when my business at this location is completed.

CLIENT INITIAL _____

Advantage Sentencing Alternative Programs, Inc.

309 East Joppa Towson, MD 21286

Office: 410-832-1717 Fax: 410-832-1719

31. I understand that there are special holiday restrictions on all activities/outings. I will be notified in writing prior to each holiday of these restrictions.
32. I understand that I am required to report to the offices of A.S.A.P., Inc. at a minimum of every two weeks. I understand that these appointments are required, and if I do not abide, I can be violated from the program. A.S.A.P., Inc. reserves the right to require any client to report to the office on a more frequent basis.
33. I understand that I must spend a MINIMUM of six (6) consecutive hours within a twenty four (24) hour period in my home, regardless of employment. I am not permitted to work more than eighteen (18) hours in a twenty four (24) hour period, including travel time.
34. I understand that I am not permitted to be away from my home for more than twenty-four (24) hours. If I am away from my home for more than twenty-four (24) hours, a letter of violation will be sent to the appropriate authorities.
35. I understand that at all times while in the A.S.A.P., Inc. office, myself and any persons that are accompanying me are being audio and video recorded. I authorize A.S.A.P., Inc. to do so.
- I, being of sound mind and body, have read or have had read to me, the terms and conditions of the A.S.A.P., Inc. Home Detention Monitoring Program. I understand that all rules and regulations are subject to change. I fully understand all terms and conditions, and agree to abide by these rules and regulations.

Abe A. Mallik

6/6/2017

 6-6-17
A.S.A.P., Inc. Representative

STATE OF MARYLAND	*	IN THE _____ COURT
V.	*	FOR _____
_____	*	CRIMINAL CASE NO. _____

ORDER FOR HOME DETENTION

It is hereby ORDERED this ____ day of _____, 20__ by the _____ Court for
that _____ be placed on Home Detention as a condition of:

(Check One)

☐ Pre-Trial Release **OR**

☐ Pre-Trial Release After bail in the amount of \$ _____ is posted **OR**
Home Detention for a period of _____, as a Condition of Probation.

(Check One)

(Length of time)

☐ Standard Home Detention

☐ GPS Home Detention

☐ SCRAM Alcohol Monitoring

☐ SCRAM Alcohol Monitoring with Home Detention

To be supervised by Advantage Sentencing Alternative Programs, Inc. (ASAP Home Detention)

309 E. Joppa Road, Towson, Maryland 21286 Phone: 410-832-1717 Fax: 410-832-1719

14760 Main Street, Suite 103, Upper Marlboro, MD 20772 Phone: 301-456-3705 Fax: 410-832-1719

3697 Park Avenue, Suite 200, Ellicott City, MD 21043 Phone: 410-832-1717 Fax: 410-832-1719

Charles Co., Washington Co., other Maryland counties, and out of state: 410-241-8321

(Contact: Danielle Winchester)

(Check All That Apply)

Under the following conditions:

☐ Standard Conditions (Allowed to attend work, counseling, medical appointments, legal/probation/home detention, weekly religious service, school, and seek employment.

☐ Four (4) hours per week for essentials to live outside of jail at the discretion of A.S.A.P., Inc.

☐ Work and Home Detention Appointments Only

☐ Other: _____

It is further ORDERED that the Defendant contact A.S.A.P., Inc. **immediately** to schedule an appointment. Additionally, the Defendant is placed on Probation for a period of _____ to be supervised by Division of Parole and Probation to commence ☐ immediately ☐ following the completion of the ASAP, Inc. program subject to further Order of the Court.

JUDGE

Phone Number: _____

Primary Charge: _____

Defense Attorney Phone Number: _____

AV

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

APARNA MALLIK,

Plaintiff

vs.

ABE ARJUN MALLIK,

Defendant.

Case No. 148408 FL

**DEFENDANT'S RESPONSE AND OPPOSITION TO PLAINTIFF'S
MOTION FOR POSTPONEMENT**

COMES NOW, Defendant, ABE ARJUN MALLIK, by and through his attorneys, SUN E. CHOI, ESQUIRE and DC Metro Law, LLC, and respectfully prays that this Honorable Court deny Plaintiff's Motion for Postponement and for reasons states:

Procedural Background:

1. That Plaintiff filed an Emergency Complaint for Custody on October 19, 2017, concerning the parties' only minor child (hereinafter referred to as "Nikita" or "minor child"), who is fourteen (14) years old and attends high school.

2. That the scheduling hearing is currently scheduled for December 5, 2017 at 8:30 a.m.

3. That on ***November 2, 2017***, Plaintiff's counsel called the undersigned regarding this issue of rescheduling the scheduling hearing. The undersigned explained very clearly to Plaintiff's counsel that as a professional courtesy, no objection would be raised in ***any other circumstance***. However, an objection ***would be raised*** in this unique situation because it was Plaintiff who:

a. Filed the Emergency Complaint for Custody concerning Nikita;

RECEIVED

NOV 27 2017

Clerk of the Circuit Court
Montgomery County, Md.

1

- b. Filed a Petition for a Protective Order in Hawaii against Nikita's guardian, making serious and false allegations that Nikita was being kept away from Plaintiff;
- c. Unilaterally took Nikita from her high school with the assistance of a police escort in front of Nikita's peers, teachers, and administrators on October 24, 2017;¹ and
- d. Has prevented Defendant from having any contact or information about the minor child's whereabouts and/or her well-being since October 24, 2017.

Plaintiff's Bad Faith Efforts To Reschedule:

4. That despite receiving the Notice of Scheduling Hearing and Order of Court on October 24, 2017, as stated in Plaintiff's Motion, Paragraph 2, Plaintiff's counsel did not contact the undersigned until November 2, 2017. Please see Plaintiff's Motion for Postponement, Exhibit 1, Emails dated November 2, 2017.

5. That during the November 2, 2017 conversation, the undersigned offered to find a date to propose an advancement of the scheduling hearing date from December 5, 2017 to an earlier date that would not conflict with the schedule of Plaintiff's attorney, Kari H. Fawcett, Esq., if allowed by this Honorable Court. In addition, the undersigned suggested that Ann Marie Dunn-Reid, Esq., the associate attorney who was handling this matter under Ms. Fawcett, stand in for Ms. Fawcett, since this is simply a procedural matter. Please see the attached Defendant's Exhibit B, 10-19-2017 Email from A.M. Dunn-Reid to S. Choi RE Emergency Custody Filing.

¹ Please see the attached Defendant's Exhibit A, 10-24-2017 Email from S. Choi to A.M. Dunn-Reid RE Taking Nikita.

6. That nowhere in Plaintiff's Motion for Postponement does it state that Ms. Ann Marie Dunn-Reid is not available to stand in for Ms. Fawcett.

7. That the postponement being requested by Plaintiff is unnecessary because the hearing scheduled for December 5, 2017 is a scheduling hearing of procedural matters, not a trial hearing on the merits of the case.

8. That Plaintiff filed the Motion for Postponement-as well as the Request to Withdraw Plaintiff's Emergency Complaint and the Motion to Disqualify Lawyer-on or about November 8, 2017, but Plaintiff mailed these pleadings to the wrong address for Defendant's counsel at 319 West Patrick Street, Suite 300, Frederick, Maryland 21701, where the undersigned has not been located since over a decade. Plaintiff chose to attempt to serve Defendant with these pleadings by mailing physical copies to an old office address of Defendant's attorney, despite having been provided with the correct and current address of Defendant's counsel in the signature block of every email Plaintiff has received from the undersigned. Please see Plaintiff's Motion to Disqualify Attorney, Exhibits 2, 3, and 4. Plaintiff also chose not to send electronic copies of the pleadings to Defendant, despite having the email addresses of Defendant's counsel and having communicated with the undersigned through email since the start of this litigation. *Thus, Defendant would never have been served with the pleadings if Defendant had not discovered the filing update and contacted Plaintiff on November 10, 2017 to obtain electronic copies, which Plaintiff finally sent on November 13, 2017.*

9. That without responding to the undersigned's email of November 6, 2017, Plaintiff withdrew the Emergency Complaint on November 8, 2017, in an attempt to diminish the urgency of the matter, and filed a Motion for Postponement. Please see the attached Defendant's Exhibit C, 11-6-2017 Email from S. Choi to K. Fawcett RE Motion For Postponement.

Prejudice to Defendant

10. That Plaintiff disregards Defendant's rights as a parent by proffering to this Honorable Court that "neither party will be prejudiced by said postponement." Please see Plaintiff's Motion for Postponement, Paragraph 4.

11. That the urgency now **DOES** exist because Defendant has no idea where his child is and how she is doing, since October 24, 2017.

12. That without any notice to or consent of Defendant, Plaintiff unilaterally retrieved the child, despite being advised of how the minor child was thriving in the care of her aunt's family and doing well in the high school she attended in Hawaii. Please see the attached Defendant's Exhibit D, Letter from Nikita Mallik.

13. That since October 24, 2017, the day Plaintiff took the minor child, Defendant has not heard from the minor child. Defendant has been unable to confirm the minor child's location or well-being since that date. The whereabouts, safety, and emotional state of the minor child are of great and immediate concern to Defendant, as well as the child's aunt in Hawaii, but such vital information is being withheld from Defendant.

14. That Defendant will absolutely be prejudiced in that he has had no contact with the minor child since October 24, 2017. Plaintiff is attempting to establish the "status quo" in her fight for custody by keeping Defendant out of Nikita's life, though he has been so involved, being the only loving parent and helping the minor child feel safe. Hence, any unnecessary delay

in the proceedings of this custody matter would be prejudicial to Defendant, given that Defendant is currently being denied his parental right of access to his own child.

15. That to add insult to injury, Plaintiff filed a protective order in Hawaii against the very people with whom she entrusted the minor child, making false and serious allegations that the minor child was being kept away from her.

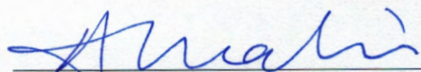
16. That in light of the urgency of this matter, Plaintiff should not be allowed to cause further delay, whether through mistakes-intentional or not-or through the nonessential postponement of a procedural hearing. Therefore, the undersigned would consent to the advancement of the scheduling hearing date, but not to its postponement.

WHEREFORE, Defendant respectfully requests that the Honorable Court:

- A. Deny Plaintiff's Motion for Postponement; and
- B. Order Plaintiff to pay Defendant's reasonable attorney's fees in the preparation of this opposition, or, in the alternative, reserve on the issue until such time when Defendant submits an itemized billing statement concerning this issue; and
- C. Grant any other relief that this Honorable Court may deem appropriate.

AFFIRMATION

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE FOREGOING STATEMENTS CONTAINED IN THIS AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE.


Abe Arjun-Mallik

Respectfully submitted,

DC Metro Law, LLC



By: SUN E. CHOI, ESQUIRE
7820B Wormans Mill Road, Suite 154
Frederick, Maryland 21701
(202) 630-9529 Office
(301) 500-3135 Fax
schoi@dcmetrolaw.net
Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 27, 2017 a copy of the foregoing Opposition to Plaintiff's Motion for Postponement was served via first class mail, postage prepaid and electronically to:

Kari H. Fawcett, Esq.
Ann-Marie Dunn-Reid, Esq.
Law Offices of Kari H. Fawcett
14300 Gallant Fox Lane, Ste. 103
Bowie, MD 20715
kari@karifawcettlaw.com
Attorney for Plaintiff/Counter-Defendant



Sun E. Choi, Esquire

IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, MARYLAND

APARNA MALLIK,

Plaintiff

vs.

ABE ARJUN MALLIK,

Defendant.

*
*
*
*
*
*
*
*

Case No. 148408 FL

ORDER

UPON CONSIDERATION of the foregoing Defendant's Opposition to Plaintiff's Motion for Postponement, and any response thereto, it is this _____ day of _____, 2017, by the Circuit Court for Montgomery County, Maryland,

ORDERED, that Plaintiff's Motion for Postponement is hereby DENIED; and it is further,

ORDERED, that Plaintiff shall pay Defendant's reasonable attorney's fees involved in this issue; Or, in the alternative, it is further,

ORDERED, that the issue of Defendant's Attorney's Fees shall be reserved until such time that Defendant is able to submit an itemized billing statement concerning this issue;

SO ORDERED.

JUDGE,
Circuit Court of Montgomery County, Maryland

Exhibit A

10-24-2017 Email from S. Choi to A.M. Dunn-Reid RE Taking Nikita



Sun E. Choi <schoi@dcmetrolaw.net>

Mallik Family Issue - URGENT - Letter from Nikita Mallik

Sun E. Choi <schoi@dcmetrolaw.net>

Tue, Oct 24, 2017 at 9:47 PM

To: kari@karifawcettllaw.com

Bcc: "Lekha Tull, Abe's Sister" <lekhatull@gmail.com>, Pualei Pilai <puapilai@gmail.com>, Abe Mallik <amallik@protonmail.com>, "Sun E. Choi, Esq." <schoi@dcmetrolaw.net>, "Ashley M. Boyer, Office Manager" <aboyer@dcmetrolaw.net>

Dear Ms. Reid,

I hope you did not advise Mrs. Mallik to fly to Hawaii and take Nikita with a police escort. That's exactly what's happened. I will certainly let the judge know exactly what Mrs. Mallik has done which is clearly against Nikita's best interest.

Please see the attached hand-written letter by Nikita. It is a letter to a judge regarding her grave concerns and her desire to stay away from her abusive and oppressive mother.

At this point, Mr. Mallik and Nikita's aunt, who is Nikita's guardian per Mrs. Mallik's wishes, is worried to death that Nikita will be harmed.

I implore you to read Nikita's letter very carefully. It tells the full story of what has happened, not the filtered story that Mrs. Mallik has provided to you.

Thank you.

--

Sun E. Choi, Esq.

DC Metro Law, LLC

www.dcmetrolaw.net

schoi@dcmetrolaw.net

7820 B Wormans Mill Road, Suite 154

Frederick, Maryland 21701

202-630-9529 voice & texts

301-500-3135 fax | Skype: sunechoi

Website | [LinkedIn](https://www.linkedin.com/company/dcmetrolaw) | [Facebook](https://www.facebook.com/dcmetrolaw) | [Twitter](https://twitter.com/dcmetrolaw) | [Instagram](https://www.instagram.com/dcmetrolaw)

NOTICE: This message is from a law firm, and it may contain or attach confidential information or an attorney-client communication that is confidential and privileged by law. It is not intended for transmission to or receipt by any unauthorized person. If you believe that you have received this message or any attachment in error, simply delete both from your system without reading or copying and notify the sender by e-mail or by calling 202-630-9529. Thank you.



Nikita.3.pdf

2832K

Exhibit B

10-19-2017 Email from A.M. Dunn-Reid to S. Choi
RE Emergency Custody Filing



Sun E. Choi <schoi@dcmetrolaw.net>

Mallik v Mallik

kari@karifawcettlaw.com <kari@karifawcettlaw.com>

Thu, Oct 19, 2017 at 5:53 PM

To: schoi@dcmetrolaw.net

Cc: Kari Fawcett <karifawcett@yahoo.com>

Ms. Choi,

Per our telephone conversation earlier today, please see the attached documents. As discussed, the attached documents were filed with the Clerk's office (Circuit Court for Montgomery County). However, I will be walking through the attached Motion to Shorten Time Requirement to the duty Judge on Friday, October 20, 2017(tomorrow) at 1:00 PM.

If there are any questions, please feel free to contact me at [301-262-5500](tel:301-262-5500) or via email by responding to the instant email message.

Sincerely,

Ann-Marie Dunn-Reid.

Law Offices of Kari H. Fawcett, 14300 Gallant Fox Lane, Ste. 103, Bowie, MD 20715

Confidential Information: This electronic mail message contains CONFIDENTIAL information which is (a) ATTORNEY-CLIENT PRIVILEGED COMMUNICATION, WORK PRODUCT, PROPRIETARY IN NATURE, OR OTHERWISE PROTECTED BY LAW FROM DISCLOSURE, and (b) intended only for the use of the Addressee(s) named herein. If you are not an Addressee, or the person responsible for delivering this to an Addressee, you are hereby notified that reading, copying, or distributing this message is prohibited. If you have received this electronic mail message in error, please reply to the sender and take the steps necessary to delete the message completely from your computer system.

IRS Circular 230 Disclosure: To ensure compliance with requirements imposed by the IRS, we inform you that, unless expressly stated otherwise, any U.S. federal tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein.

2 attachments



Mallik-Emergency Complaint for Custody.pdf
2217K



Mallik-Motion to Shorten Time Requirement.pdf
2416K

Exhibit C

11-6-2017 Email from S. Choi to K. Fawcett RE Motion For Postponement



Sun E. Choi <schoi@dcmetrolaw.net>

Mallik v. Mallik

Sun E. Choi <schoi@dcmetrolaw.net>
To: kari@karifawcettlaw.com

Mon, Nov 6, 2017 at 9:54 AM

Ms. Fawcett,

As we discussed on Nov. 2, 2017, if you file a motion to continue the Scheduling Conference set for 12/5, I will consent if you want to advance the date. I am objecting if you want to continue it because of the urgency involved per your Emergency Custody Petition.

Thank you.

[Quoted text hidden]

Exhibit D

Letter from Nikita Malik



Sun E. Choi <schoi@dcmetrolaw.net>

Mallik Family Issue - URGENT - Letter from Nikita Mallik

Sun E. Choi <schoi@dcmetrolaw.net>

Tue, Oct 24, 2017 at 9:47 PM

To: kari@karifawcettlaw.com

Bcc: "Lekha Tull, Abe's Sister" <lekhatull@gmail.com>, Pualei Pilai <puapilai@gmail.com>, Abe Mallik <amallik@protonmail.com>, "Sun E. Choi, Esq." <schoi@dcmetrolaw.net>, "Ashley M. Boyer, Office Manager" <aboyer@dcmetrolaw.net>

Dear Ms. Reid,

I hope you did not advise Mrs. Mallik to fly to Hawaii and take Nikita with a police escort. That's exactly what's happened. I will certainly let the judge know exactly what Mrs. Mallik has done which is clearly against Nikita's best interest.

Please see the attached hand-written letter by Nikita. It is a letter to a judge regarding her grave concerns and her desire to stay away from her abusive and oppressive mother.

At this point, Mr. Mallik and Nikita's aunt, who is Nikita's guardian per Mrs. Mallik's wishes, is worried to death that Nikita will be harmed.

I implore you to read Nikita's letter very carefully. It tells the full story of what has happened, not the filtered story that Mrs. Mallik has provided to you.

Thank you.

--

Sun E. Choi, Esq.

DC Metro Law, LLC

www.dcmetrolaw.net

schoi@dcmetrolaw.net

7820 B Wormans Mill Road, Suite 154

Frederick, Maryland 21701

202-630-9529 voice & texts

301-500-3135 fax | Skype: sunechoi

[Website](#) | [LinkedIn](#) | [Facebook](#) | [Twitter](#) | [Instagram](#)

NOTICE: This message is from a law firm, and it may contain or attach confidential information or an attorney-client communication that is confidential and privileged by law. It is not intended for transmission to or receipt by any unauthorized person. If you believe that you have received this message or any attachment in error, simply delete both from your system without reading or copying and notify the sender by e-mail or by calling 202-630-9529. Thank you.

 **Nikita.3.pdf**
2832K

October 22, 2017

Your Honor,

My name is Nikita Mallik. I am fourteen years old. My father is Abe-Arjun Mallik, and my mother is Aparna Mallik.

I do not want to return to my mother. Throughout my life I have experienced physical, emotional and psychological abuse at her hands. She is a manipulative and volatile person with an explosive temperament who has threatened suicide on multiple occasions, and is capable of harming others without any remorse. I want to remain as far as possible from my abusive mother out of fear for my safety. I have no intentions of living with or near my mother.

I spent my life being trained to become used to the endless fights between my parents. My mother always told me that it was normal, and that all parents fought like that, as well as that many kids had worse home environments than mine, and I should therefore be grateful. When I came to Hawaii, I learned that was not so; my aunt and uncle have never addressed me in anything less than a polite voice, and seldom raise their voices at each other at all. Furthermore, they were utterly astonished that any parents would fight like that: a direct contradiction to my mother's claims.

I grew up doing my homework while listening to my mother shrieking at the top of her lungs at my father, beating him relentlessly. She also swung larger, more harmful objects, (such as sticks, bottles, and the standing fan in his office) at my father with her full strength. After working herself into a rage, she stormed into my room, screaming at me, exploiting my every inadequacy. She would scream at me for missing a test question, mocking me sardonically for when I defended

myself. No matter how good I was at anything, it was never enough. When I expressed my will to improve at something, she mocked me along the lines of "why aren't you better at it, then?" My mother always referred to me as "naive" and "a lazy bitch," both words she spat spitefully, staring at me with utter disgust and loathing. I have seldom gone a day without her screaming and hitting me, as hard as she possibly could. On top of it all, she always cast herself as the victim, telling me I should be grateful she cared about me enough to lecture me, and never missing an opportunity to let me know I was the only obstacle between her and divorcing my father, which she phrased like the path to eternal happiness. I was always the person comforting her after she blew up at my father and I, doing whatever I possibly could to make her happy. In many ways, I felt like more of a parent to her than the other way around; she would always rant about others to me, and I would express my sympathies on the other hand, whenever (on the few occasions when) I tried confiding in her, she would mock me and punish me, and at the very least act extremely judgementally towards me. She had no respect for me, and since she was the only person in the world that mattered to me, I grew up believing no one had or ever would respect me. I didn't know how to make friends, because I spent much of my childhood isolated with little to no guidance on social skills. The stress of living up to my mother's unrealistic expectations, while alone, friendless, and isolated (from even my own father, who she villainized to an incredible extent), caused my self esteem to plummet to the point where I felt utterly worthless.

From the age of seven and onward, I spent many of my nights curled in my closet, wishing desperately that I was dead, because then maybe then I wouldn't be such an nuisance to everyone. As I grew older, I contemplated overdosing, as well as

more graphic methods of committing suicide. I felt utterly empty inside. I had no love for my mother in truth, only in name. I had grown too used to her fickle apologies, and how she only showed love when I did well academically. She rarely showed me physical or emotional affection until I had won a competition I was working towards, or, of course, when she required comfort. I began to ever so slowly make friends in middle school for the first time, learning that not everyone was horrible and manipulative in the way my mother portrayed them. I began to realize that not every mother was controlling in the way mine was — monitoring my every text, telling me what to say to everyone, including my friends; needing my every passcode; not being allowed anywhere without her knowing and usually with her presence; giving me almost no free time, moving from piano class to French horn class, without pause, and expecting flawlessness.

Now, in Hawaii, I am liberated, loved and cared for by my aunt and uncle, and happier than I have been in all my fourteen years under my mother's death grip. I am doing well in my classes and extracurricular activities, have friends here at my new school in Hawaii, and for once I look forward to returning home at the end of the day; I know I'll receive a bright hug given with loving intent, and an inquiry about my day, as opposed to a one-sided screaming match referencing my inferiority, courtesy of my mother. Without those repeated assertions of my worthlessness, I would never have contemplated suicide.

I have no desire to contact my abusive mother, and absolutely no desire to live with her, for all the reasons stated in this letter.

Please take this letter into serious consideration. I have not been coerced into writing this letter, and am writing it of my own free will.

Sincerely,

Nikita Malik

Nikita Malik

AV

EXHIBIT C

October 22, 2017

Your Honor,

My name is Nikita Mallik. I am fourteen years old. My father is Abe-Arjun Mallik, and my mother is Aparna Mallik.

I do not want to return to my mother. Throughout my life I have experienced physical, emotional and psychological abuse at her hands. She is a manipulative and volatile person with an explosive temperament who has threatened suicide on multiple occasions, and is capable of harming others without any remorse. I want to remain as far as possible from my abusive mother out of fear for my safety. I have no intentions of living with or near my mother.

I spent my life being trained to become used to the endless fights between my parents. My mother always told me that it was normal, and that all parents fought like that, as well as that many kids had worse home environments than mine, and I should therefore be grateful. When I came to Hawaii, I learned that was not so; my aunt and uncle have never addressed me in anything less than a polite voice, and seldom raise their voices at each other at all. Furthermore, they were utterly astonished that any parents would fight like that: a direct contradiction to my mother's claims.

I grew up doing my homework while listening to my mother shrieking at the top of her lungs at my father, beating him relentlessly. She also swung larger, more harmful objects, (such as sticks, bottles, and the standing fan in his office) at my father with her full strength. After working herself into a rage, she stormed into my room, screaming at me, exploiting my every inadequacy. She would scream at me for missing a test question, mocking me sardonically for when I defended

myself. No matter how good I was at anything, it was never enough. When I expressed my will to improve at something, she mocked me along the lines of "why aren't you better at it, then?" My mother always referred to me as "naive" and "a lazy bitch," both words she spat spitefully, staring at me with utter disgust and loathing. I have seldom gone a day without her screaming and hitting me as hard as she possibly could. On top of it all, she always cast herself as the victim, telling me I should be grateful she cared about me enough to lecture me, and never missing an opportunity to let me know I was the only obstacle between her and divorcing my father, which she phrased like the path to eternal happiness. I was always the person comforting her after she blew up at my father and I, doing whatever I possibly could to make her happy. In many ways, I felt like more of a parent to her than the other way around; she would always rant about others to me, and I would express my sympathies on the other hand, whenever (on the few occasions when) I tried confiding in her, she would mock me and punish me, and at the very least act extremely judgementally towards me. She had no respect for me, and since she was the only person in the world that mattered to me, I grew up believing no one had or ever would respect me. I didn't know how to make friends, because I spent much of my childhood isolated with little to no guidance on social skills. The stress of living up to my mother's unrealistic expectations, while alone, friendless, and isolated (from even my own father, who she villainized to an incredible extent), caused my self esteem to plummet to the point where I felt utterly worthless.

From the age of seven and onward, I spent many of my nights curled in my closet, wishing desperately that I was dead, because then maybe then I wouldn't be such an annoyance to everyone. As I grew older, I contemplated overdosing, as well as

more graphic methods of committing suicide. I felt utterly empty inside. I had no love for my mother in truth, only in name. I had grown too used to her fickle apologies, and how she only showed love when I did well academically. She rarely showed me physical or emotional affection until I had won a competition I was working towards, or, of course, when she required comfort. I began to ever so slowly make friends in middle school for the first time, learning that not everyone was horrible and manipulative in the way my mother portrayed them. I began to realize that not every mother was controlling in the way mine was — monitoring my every text, telling me what to say to everyone, including my friends; needing my every passcode; not being allowed anywhere without her knowing and usually with her presence; giving me almost no free time, moving from piano class to French horn class, without pause, and expecting flawlessness.

Now, in Hawaii, I am liberated, loved and cared for by my aunt and uncle, and happier than I have been in all my fourteen years under my mother's death grip. I am doing well in my classes and extracurricular activities, have friends here at my new school in Hawaii, and for once I look forward to returning home at the end of the day; I know I'll receive a bright hug given with loving intent, and an inquiry about my day, as opposed to a one-sided screaming match referencing my inferiority, courtesy of my mother. Without those repeated assertions of my worthlessness, I would never have contemplated suicide.

I have no desire to contact my abusive mother, and absolutely no desire to live with her, for all the reasons stated in this letter.

Please take this letter into serious consideration. I have not been coerced into writing this letter, and am writing it of my own free will.

Sincerely,

Nikita Mallik

Nikita Mallik

STATE OF MARYLAND : CRIMINAL NO. 16-059271
VS. : IN THE CIRCUIT COURT FOR
ABE ARJUN MALLIK : FREDERICK COUNTY, MARYLAND


PS

STATE'S ANSWER TO DEFENDANT'S MOTION FOR A NEW TRIAL
PURSUANT TO MD. R. 4-331

The State of Maryland, by and through Joyce R. King, Assistant State's Attorney for Frederick County, Maryland, in answer to the Defendant's Motion for a New Trial Pursuant to MD. R. 4-331, states as follows:

1. That the Court properly allowed an amendment to the charging document. Maryland Rule 4-204 provides that the Court, at any time before a verdict, may permit a charging document to be amended provided the amendment does not change the character of the offense charged. Maryland Courts have held changing the date of the offense is considered a matter of form and not substance. *See Holbrook v. State*, 133 Md. App. 245 (2001); *Manuel v. State*, 85 Md. App. 1 (1990); *Albrecht v. State*, 105 Md. App. 45 (1995); *Thompson v. State*, 371 Md. 473 (2002);
2. That the jury pool was not tainted. The Court polled the jury and they unanimously stated they did not believe the Defendant was the individual who fled the court that morning. There was no confusion and each juror confirmed that the statement by Judge Nicklas did not affect their ability to be fair and unbiased;
3. That the State does not believe the Defendant's remaining evidentiary arguments regarding emails and iPads establish any grounds of fraud, mistake or irregularity for a motion for new trial under Maryland Rule 4-331(b)(1)(B);
4. That Because the Defendant has failed to establish any grounds of fraud, mistake or irregularity, this is an untimely motion under Maryland Rule 4-331(a).

WHEREFORE, the State respectfully requests the Court DENY the Defendant's Motion without a hearing.



JOYCE R. KING
ASSISTANT STATE'S ATTORNEY
100 WEST PATRICK STREET
FREDERICK, MARYLAND 21701
301-600-1523

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12 day of January, 2018, a copy of this State's Answer to Defendant's Motion for a New Trial was sent via MDEC and/or Sharefile, a secure file sharing service, to the designated e-mail address for Sun Choi, Esq., Attorney for the Defendant herein.



JOYCE R. KING
ASSISTANT STATE'S ATTORNEY

STATE OF MARYLAND : CRIMINAL NO. 16-059271
VS. : IN THE CIRCUIT COURT FOR
ABE ARJUN MALLIK : FREDERICK COUNTY, MARYLAND

ORDER OF COURT

Upon consideration of the State's Answer to Defendant's Motion for a New Trial Pursuant to Md. R. 4-331, it is hereupon this _____ day of _____, 2018, by the Circuit Court for Frederick County, Maryland, ORDERED, that the above-mentioned motion is hereby DENIED without a hearing.

.

JUDGE



**CIRCUIT COURT FOR FREDERICK COUNTY,
MARYLAND**

100 West Patrick Street
Frederick, Maryland 21701

Clerk of the Court: 301-600-1976
Assignment Office: 301-600-2015

To: SUN E CHOI
7820 B WORMANS MILL ROAD
SUITE 132
FREDERICK MD 21701

Case Number: 10-K-16-059271

2U00088412; CSA-REG-2091-

Related Case Number: 2017

STATE OF MARYLAND VS ABE ARJUN MALLIK

Date: 01/18/2018

NOTICE OF HEARING / TRIAL

You are hereby notified that this case is scheduled in the CIRCUIT COURT FOR FREDERICK COUNTY, 100 West Patrick Street, Frederick, MD 21701 for

Date	Time	Type of Proceeding
02/20/2018	9:00AM	Motion for a New Trial

PLEASE NOTE: The Defendant and Counsel MUST APPEAR. All counsel are expected to confer with each other with regard to the assigned trial date and file a motion for continuance promptly.

Counsel and Respondent shall report one half hour prior to the scheduled time of the hearing/trial.

All witnesses shall be subpoenaed one hour prior to the scheduled time of the hearing/trial, unless arrangements have been made with the court, in advance, for a witness to appear at another time.

If you, a party represented by you, or a witness to be called on behalf of the party need an accommodation under the Americans with Disabilities Act, please contact the Court.

Assignment Clerk

Assignment Office Phone: (301) 600-2988

cc: Joyce Maramot Roldan



**CIRCUIT COURT FOR FREDERICK COUNTY,
MARYLAND**

100 West Patrick Street
Frederick, Maryland 21701

Clerk of the Court: 301-600-1976
Assignment Office: 301-600-2015

To: JOYCE MARAMOT ROLDAN
ASSISTANT STATE'S ATTORNEY FOR FREDERICK
COUNTY
100 W PATRICK STREET
FREDERICK MD 21701

Case Number: 10-K-16-059271

2U00088412; CSA-REG-2091-

Related Case Number: 2017

STATE OF MARYLAND VS ABE ARJUN MALLIK

Date: 01/18/2018

NOTICE OF HEARING / TRIAL

You are hereby notified that this case is scheduled in the CIRCUIT COURT FOR FREDERICK COUNTY, 100 West Patrick Street, Frederick, MD 21701 for

Date	Time	Type of Proceeding
02/20/2018	9:00AM	Motion for a New Trial

PLEASE NOTE: The Defendant and Counsel MUST APPEAR. All counsel are expected to confer with each other with regard to the assigned trial date and file a motion for continuance promptly.

Counsel and Respondent shall report one half hour prior to the scheduled time of the hearing/trial.

All witnesses shall be subpoenaed one hour prior to the scheduled time of the hearing/trial, unless arrangements have been made with the court, in advance, for a witness to appear at another time.

If you, a party represented by you, or a witness to be called on behalf of the party need an accommodation under the Americans with Disabilities Act, please contact the Court.

Assignment Clerk

Assignment Office Phone: (301) 600-2988

cc: Sun E Choi

COURTROOM WORKSHEET

No. K116-59271 CriminalNo. 1 CourtroomDFB ClerkDate: 2/20/18Defendant: Abe A. MallikState/Atty KingDeft/Atty motions hrg

646 Judge Solt _____
655 Judge Adams WJ
669 Judge Nicklas ✓
675 Judge Rolle _____
679 Judge Sandy _____
682 Judge Martz-Fisher _____
____ Judge _____

____ Pre-Trial Conf.
____ Original Sentencing
____ Violation of Probation
____ Modification/Reduction
____ Plea/Stipulation

____ Nol Pros
____ Stet
____ Advised of Rule 4-215
____ State/Defense/Joint Continuance
____ FTA/Bond For/BW issd/Bond by PCCJ

INCARCERATION:

Count(s) No./Charge: _____

____ DOC

Length of Sentence: _____ Credit from: _____

____ FCADC

____ In Addition to Any Time Served

____ Suspend All

____ Must Serve 50% of Sentence

____ Suspend All But _____

____ Work Release Authorized

____ Delayed Entry Beginning _____

____ Weekend Incarceration Beginning _____

____ Home Detention Authorized through: Sheriff's Department _____

____ Domestically Related Private Agency _____

not called
Removed prior
to court

PROBATION:

____ Supervised _____ Years _____ Months

____ Unsupervised _____ P/P _____ DDMP

____ PBJ-CP 6-220 _____ Supervision Fee Authorized/Waived

SPECIAL CONDITIONS:

____ Submit to all programs recommended

____ Remain Drug Free

____ Remain Alcohol Free

____ Random Testing at Own Expense

____ Alcohol Counseling

____ Drug Counseling

____ Community Service _____ Hours Schedule through: _____ Alt. Sentencing _____ Privately By _____

____ Court Costs \$ _____ Pay Through: _____ P/P _____ Clerk By/Within _____

____ Fine(s) \$ _____ Pay Through: _____ P/P _____ Clerk By/Within _____

____ MD Substance Abuse Fund \$ _____ Clerk

____ No Contact with _____

____ Above/Below Guidelines Due to: _____

____ Other _____

RESTITUTION:

Restitution of \$ _____

Victim: _____

____ Pay Direct _____ Pay SAO _____ Pay P&P

When all charges against the defendant are disposed of by acquittal, dismissal, probation before judgment, nolle prosequi, or stet, the defendant may be entitled to expunge the records relating to the charge or charges in accordance with Title 10, Subtitle 1, of the Criminal Procedure Article of the Annotated Code of Maryland.

03/22/2018

DK

STATE OF MARYLAND,

Plaintiff

v.

ABE ARJUN MALLIK

Defendant

*

*

*

*

*

*

*

* * * * *

ENTRY OF APPEARANCE

Dear Clerk of the Court:

Please enter the appearance of Matthew M. Bryant, who represents Abe Arjun Mallik in the Court of Special Appeals from the conviction in the above captioned case, in the above captioned matter for the limited purpose of accessing the circuit court record for purposes of his appeal.

Respectfully submitted,

By:



Matthew M. Bryant
Joseph, Greenwald & Laake, P.A.
6404 Ivy Lane, Suite 400
Greenbelt, Maryland 20770
Phone: (301) 220-2200
mbryant@jgllaw.com
Counsel for Abe Arjun Mallik



**CIRCUIT COURT FOR FREDERICK COUNTY,
MARYLAND**

100 West Patrick Street
Frederick, Maryland 21701

Clerk of the Court: 301-600-1976
Assignment Office: 301-600-2015

To: JOYCE MARAMOT ROLDAN
ASSISTANT STATE'S ATTORNEY FOR FREDERICK
COUNTY
100 W PATRICK STREET
FREDERICK MD 21701

Case Number: 10-K-16-059271

2U00088412; CSA-REG-2091-

Related Case Number: 2017

STATE OF MARYLAND VS ABE ARJUN MALLIK

Date: 04/09/2018

NOTICE OF HEARING / TRIAL

You are hereby notified that this case is scheduled in the CIRCUIT COURT FOR FREDERICK COUNTY, 100 West Patrick Street, Frederick, MD 21701 for

Date	Time	Type of Proceeding
05/21/2018	9:00AM	Hearing – Motion for New Trial

PLEASE NOTE: The Defendant and Counsel MUST APPEAR. All counsel are expected to confer with each other with regard to the assigned trial date and file a motion for continuance promptly.

Counsel and Respondent shall report one half hour prior to the scheduled time of the hearing/trial.

All witnesses shall be subpoenaed one hour prior to the scheduled time of the hearing/trial, unless arrangements have been made with the court, in advance, for a witness to appear at another time.

If you, a party represented by you, or a witness to be called on behalf of the party need an accommodation under the Americans with Disabilities Act, please contact the Court.

Assignment Clerk

Assignment Office Phone: (301) 600-2019

cc: Sun E Choi



**CIRCUIT COURT FOR FREDERICK COUNTY,
MARYLAND**

100 West Patrick Street
Frederick, Maryland 21701

Clerk of the Court: 301-600-1976
Assignment Office: 301-600-2015

To: SUN E CHOI
7820 B WORMANS MILL ROAD
SUITE 132
FREDERICK MD 21701

Case Number: 10-K-16-059271
2U00088412; CSA-REG-2091-
Related Case Number: 2017

STATE OF MARYLAND VS ABE ARJUN MALLIK

Date: 04/09/2018

NOTICE OF HEARING / TRIAL

You are hereby notified that this case is scheduled in the CIRCUIT COURT FOR FREDERICK COUNTY, 100 West Patrick Street, Frederick, MD 21701 for

Date	Time	Type of Proceeding
05/21/2018	9:00AM	Hearing – Motion for New Trial

PLEASE NOTE: The Defendant and Counsel MUST APPEAR. All counsel are expected to confer with each other with regard to the assigned trial date and file a motion for continuance promptly.

Counsel and Respondent shall report one half hour prior to the scheduled time of the hearing/trial.

All witnesses shall be subpoenaed one hour prior to the scheduled time of the hearing/trial, unless arrangements have been made with the court, in advance, for a witness to appear at another time.

If you, a party represented by you, or a witness to be called on behalf of the party need an accommodation under the Americans with Disabilities Act, please contact the Court.

Assignment Clerk
Assignment Office Phone: (301) 600-2019

cc: Joyce Maramot Roldan

04/12/2018

DK

IN THE CIRCUIT COURT FOR FREDERICK COUNTY, MARYLAND

STATE OF MARYLAND	:	
	:	
Plaintiff,	:	
	:	
vs.	:	Case: 10-K-16-059271
	:	
ABE MALLIK,	:	
	:	
Defendant,	:	

LINE

Please enter the appearance of Thomas C. Mooney, Esq as Attorney for Mr. Mallik, in the above-captioned matter.

s/Thomas C. Mooney
Thomas C. Mooney, Esq
Attorney for Defendant
14750 Main St, 2nd Floor
Upper Marlboro, MD 20772
(301) 574-0800
Mooneyesq@aol.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on this 11th day of April, 2018 that a copy of the foregoing line was filed and sent to the State's Attorney's Office in Charles County through MDEC.

s/Thomas C. Mooney
Thomas C. Mooney, Esq

ABE ARJUN MALLIK,

Appellant,

v.

STATE OF MARYLAND,

Appellee.

*
* IN THE
* COURT OF SPECIAL APPEALS
* OF MARYLAND
* No. 2091, September Term, 2017
* MDEC: CSA-REG-2091-2017
* (CC# 10K16059271)
*

* * * * *

ORDER

Upon consideration of appellant's Consent Motion to Permit Inspection of the State's Trial Exhibits, it is this 17th day of May 2018, by the Court of Special Appeals,

ORDERED, that the Consent Motion to Permit Inspection of the State's Trial Exhibits be, and is hereby, granted; and it is further

ORDERED, that the Clerk of the Circuit Court for Frederick County will transfer under seal the State's trial exhibits¹ in the above-captioned case to the State's Attorney for Frederick County for the limited purpose of facilitating inspection of the exhibits by appellate counsel; and it is further

ORDERED, that the State's Attorney will retain custody of the State's trial exhibits under seal, but will permit appellant's counsel and counsel for the State to

¹ The exhibits should include State's exhibits 9, 10, 15, 20, and 21 which have been placed under seal.

inspect the exhibits at mutually convenient dates including a date after June 12, 2018; and
it is further

ORDERED, that after the appellant's counsel and counsel for the State have
concluded their inspections of the State's exhibits, the State's Attorney for Frederick
County will retransmit them to the Clerk of the Circuit Court for Frederick County; and it
is further

ORDERED, that the above-captioned appeal is rescheduled for argument to the
September session of this Court; and it is further

ORDERED, that appellant's brief shall be filed on or before June 12, 2018.



(CHIEF JUDGE'S SIGNATURE
APPEARS ON ORIGINAL ORDER)

PATRICK L. WOODWARD, CHIEF JUDGE

COURTROOM WORKSHEET

No. 10-K-16-59271 Criminal

No. 4 Courtroom

Date: 5-21-18 ✓

Defendant: Abe Mallik

State/Atty King

Deft/Atty Mooney/Choi

646 Judge Solt _____

655 Judge Adams _____

669 Judge Nicklas _____

675 Judge Rolle ✓

679 Judge Sandy _____

682 Judge Martz-Fisher _____

____ Judge _____

✓ Hearing
____ Pre-Trial Conf.

____ Original Sentencing

____ Violation of Probation

____ Modification/Reduction

____ Plea/Stipulation

____ Nol Pros

____ Stet

____ Advised of Rule 4-215

____ State/Defense/Joint Continuance

____ FTA/Bond Forf/BW issd/Bond by PCCJ

INCARCERATION:

Count(s) No./Charge: _____

____ DOC

Length of Sentence: _____

Credit from: _____

____ FCADC

____ In Addition to Any Time Served

____ Suspend All

____ Must Serve 50% of Sentence

____ Suspend All But _____

____ Work Release Authorized

____ Delayed Entry Beginning _____

____ Weekend Incarceration Beginning _____

____ Home Detention Authorized through: Sheriff's Department _____

____ Domestically Related Private Agency _____

Δ's mtn for new trial;
DENIED

PROBATION:

____ Supervised _____ Years _____ Months

____ Unsupervised _____ P/P _____ DDMP

____ PBJ-CP 6-220 _____ Supervision Fee Authorized/Waived

SPECIAL CONDITIONS:

____ Submit to all programs recommended

____ Remain Drug Free

____ Remain Alcohol Free

____ Random Testing at Own Expense

____ Alcohol Counseling

____ Drug Counseling

____ Community Service _____ Hours Schedule through: _____ Alt. Sentencing _____ Privately By _____

____ Court Costs \$ _____ Pay Through: _____ P/P _____ Clerk By/Within _____

____ Fine(s) \$ _____ Pay Through: _____ P/P _____ Clerk By/Within _____

____ MD Substance Abuse Fund \$ _____ Clerk

____ No Contact with _____

____ Above/Below Guidelines Due to: _____

____ Other _____

RESTITUTION:

Restitution of \$ _____

Victim: _____

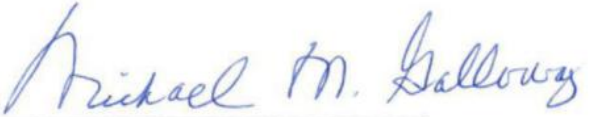
____ Pay Direct _____ Pay SAO _____ Pay P&P

When all charges against the defendant are disposed of by acquittal, dismissal, probation before judgment, nolle prosequi, or stet, the defendant may be entitled to expunge the records relating to the charge or charges in accordance with Title 10, Subtitle 1, of the Criminal Procedure Article of the Annotated Code of Maryland.

STATE OF MARYLAND : CRIMINAL NO. 16-059271
VS. : IN THE CIRCUIT COURT FOR
ABE ARJUN MALLIK : FREDERICK COUNTY, MARYLAND

ORDER OF COURT

Upon consideration of the State's Answer to Defendant's Motion for a New Trial Pursuant to Md. R. 4-331, it is hereupon this 21st day of May, 2018, by the Circuit Court for Frederick County, Maryland, ORDERED, that the above-mentioned motion is hereby DENIED ~~without a hearing.~~


JUDGE

Entered: Clerk, Circuit Court for
Frederick County, MD
May 21, 2018